

## **REMARKS/ARGUMENTS**

The Office Action mailed April 16, 2007 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Claim 1 has been amended to correct grammatical matters. No new matter has been added.

### **The 35 U.S.C. § 103 Rejection**

The Examiner rejected claims 1-32 under 35 U.S.C. § 103(a) as being unpatentable over Jackson (U.S. Publication No. 2003/0069074) in view of Guinn et al. (U.S. Patent No. 6,039,648). Claim 1 is an independent claim. Applicants respectfully traverse this rejection.

According to the Manual of Patent Examining Procedure (M.P.E.P.) § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness: 1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; 2) there must be a reasonable expectation of success; and 3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure. M.P.E.P. § 2143.01.

The Office Action contends that the elements of the presently claimed invention are disclosed in Jackson except that “Jackson is seemingly silent regarding a pay table stored in memory, wherein the table includes various staging information used in determining sequences of stages for use in games of chance.” The Office Action further contends that:

“Guinn discloses dynamically changing pay tables through the selection of various tournament parameters, (Col. 2. Lines 53-57, col. 4. Lines 64-64 & Col. 5. Lines 1-13). Furthermore, Guinn discloses that pay tables are dynamically altered between various game modes (sequences of states) in order to entice players, (Col. 7. Lines 14-27). Guinn teaches that by changing pay table parameters as described above, a new game (tournament game mode) is effectively created.”

The Office Action further states that “it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the dynamically changing pay tables of Guinn into the device of Jackson for the purpose of maintaining entertainment and enticing

the player to continue game play.” Applicants respectfully disagree for the reasons, among others, set forth below.

Claim 1 provides for:

“a memory storing a paytable wherein the paytable includes staging information associated with at least one game outcome and wherein the game manager is operable to determine a sequence of stages for use in a particular game of chance using the staging information in the paytable.”

As provided in the specification, “additional stages may be added to the game of chance by a game developer. Possible stages that may be added include double-ups and bonus rounds.” (Specification, page 35, lines 31-33). As stated previously, traditional paytables only store game outcomes and awards associated with each game outcome. The claimed invention provides that the staging information with the paytable associated with a particular game outcome may be altered to change the presentation of the game without changing the game outcomes. This allows new games to be easily generated.

The Office Action attempts to cite Guinn as teaching the above limitation. However, upon a closer reading of the citations provided in the Office Action, Guinn in fact does not teach the above limitation. Guinn teaches an “automated tournament gaming system 10 includes a tournament schedule computer 40 operatively coupled to the central server 20 for scheduling tournament parameters such as the length of tournaments, paytables and start times. The system parameters are preferably input into the system 10 by an operator with the proper authority access.” (Col. 4, lines 64-67 through col. 5, lines 1-3). Thus, Guinn simply teaches a traditional paytable that merely stores game outcomes and awards associated with each game outcome and does not teach a paytable including staging information as claimed in Claim 1.

The Office Action further cites the following portion of Guinn:

a player would approach a gaming machine  $G_N$  and actuate a request button means 140 (please see FIG. 2) on the gaming machine  $G_N$  for requesting further detailed information on the tournament play. The request button means 140 may be a delineated area on the touch screen display or a button or the like on the gaming machine  $G_N$ . The actuation of the button means 140 initiates the start of a help script which would further delineate the detail of tournament play and also would describe how the player can enter the tournament automatically and directly from the gaming machine  $G_N$ . Simultaneously, the paytables 130 are dynamically incremented

between the normal game mode and the incentive tournament game mode for "selling" the player on buying into the excitement of the tournament.

(col. 7, lines 14-27). Guinn teaches the use of a request button whereby a user is able to obtain information about a tournament. The paytables would switch between normal game mode and tournament game mode to merely inform the user of the different payouts for both games. This switch between paytables occur while a user is requesting further information about the games. There is no indication or suggestion that either paytables include staging information associated with each game outcome as claimed in Claim 1. Guinn does not teach or suggest using staging information with the payable associated with a particular game outcome that may be altered to change the presentation of the game without changing the game outcomes. Guinn merely teaches a traditional payable and does not teach or suggest "a memory storing a payable wherein the payable includes staging information associated with at least one game outcome" as claimed in Claim 1.

Moreover, the combination of Jackson and Guinn does not teach or suggest "wherein the game manager is operable to determine a sequence of stages for use in a particular game of chance using the staging information in the payable" as claimed in Claim 1.

As a note, the Office Action states that Jackson:

"implicitly teaches a shared object (game stage), wherein the shared object contains one or more game states and corresponding presentation states, and a logical separation of the internal workings of a state such that one state can be modified without affecting the logic of another state. Additionally, Jackson '074 appears to implicitly teach that the game states and the system handler communication through one or more APIs as related to the nonvolatility memory. ...As stated previously, one of ordinary skill in the art could ascertain each claim element through a detailed reading of the publication."

"[I]nherency ... and its obviousness are entirely different questions. That which may be inherent is not necessarily known. Obviousness cannot be predicated on what is unknown." *In re Sportsman*, 363 F.2d 444, 448, 150 USPQ 449, 452 (CCPA 1966). Thus, an argument based on inherency cannot stand when there is no supported teaching of the inherency in the prior art, specifically in Jackson. Inherency and obviousness are distinct concepts. Applicant can not agree with the Office Action, in general, in regards to what is implicitly taught in Jackson when the Office Action extrapolates a suggestion in one instance to other instances where many methodologies may be

utilized to accomplish the same result. There is no supported teaching of the inherency asserted in the Office Action in Jackson.

Accordingly, for at least the reasons stated above, it can not be said that the combination of Jackson and Guinn renders the claimed invention obvious. As to dependent claims 2-32, the argument set forth above is equally applicable here. The base claim being allowable, the dependent claims must also be allowable.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance. It is respectfully requested that this rejection be withdrawn.

#### Conclusion

Applicants believe that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited and Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should the Examiner believe that an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

If any fees are due in connection with the filing of this Response, the Commissioner is hereby authorized to charge such fees to Deposit Account 500388 (Order No. IGT1P078).

Respectfully submitted,  
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